

109TH CONGRESS
1ST SESSION

S. 2120

AN ACT

To ensure regulatory equity between and among all dairy farmers and handlers for sales of packaged fluid milk in federally regulated milk marketing areas and into certain non-federally regulated milk marketing areas from federally regulated areas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Milk Regulatory Eq-
5 uity Act of 2005”.

1 **SEC. 2. MILK REGULATORY EQUITY.**

2 (a) MINIMUM MILK PRICES FOR HANDLERS; EXEMP-
 3 TION.—Section 8c(5) of the Agricultural Adjustment Act
 4 (7 U.S.C. 608c(5)), reenacted with amendments by the
 5 Agricultural Marketing Agreement Act of 1937, is amend-
 6 ed by adding at the end the following new subparagraphs:

7 “(M) MINIMUM MILK PRICES FOR HANDLERS.—

8 “(i) APPLICATION OF MINIMUM PRICE RE-
 9 QUIREMENTS.—Notwithstanding any other provision
 10 of this section, a milk handler described in clause
 11 (ii) shall be subject to all of the minimum and uni-
 12 form price requirements of a Federal milk marketing
 13 order issued pursuant to this section applicable to
 14 the county in which the plant of the handler is lo-
 15 cated, at Federal order class prices, if the handler
 16 has packaged fluid milk product route dispositions,
 17 or sales of packaged fluid milk products to other
 18 plants, in a marketing area located in a State that
 19 requires handlers to pay minimum prices for raw
 20 milk purchases.

21 “(ii) COVERED MILK HANDLERS.—Except as
 22 provided in clause (iv), clause (i) applies to a han-
 23 dler of Class I milk products (including a producer-
 24 handler or producer operating as a handler) that—

25 “(I) operates a plant that is located within
 26 the boundaries of a Federal order milk mar-

1 keting area (as those boundaries are in effect as
 2 of the date of the enactment of this subpara-
 3 graph);

4 “(II) has packaged fluid milk product
 5 route dispositions, or sales of packaged fluid
 6 milk products to other plants, in a milk mar-
 7 keting area located in a State that requires
 8 handlers to pay minimum prices for raw milk
 9 purchases; and

10 “(III) is not otherwise obligated by a Fed-
 11 eral milk marketing order, or a regulated milk
 12 pricing plan operated by a State, to pay min-
 13 imum class prices for the raw milk that is used
 14 for such dispositions or sales.

15 “(iii) OBLIGATION TO PAY MINIMUM CLASS
 16 PRICES.—For purposes of clause (ii)(III), the Sec-
 17 retary may not consider a handler of Class I milk
 18 products to be obligated by a Federal milk mar-
 19 keting order to pay minimum class prices for raw
 20 milk unless the handler operates the plant as a fully
 21 regulated fluid milk distributing plant under a Fed-
 22 eral milk marketing order.

23 “(iv) CERTAIN HANDLERS EXEMPTED.—Clause
 24 (i) does not apply to—

“(I) a handler (otherwise described in clause (ii)) that operates a nonpool plant (as defined in section 1000.8(e) of title 7, Code of Federal Regulations, as in effect on the date of the enactment of this subparagraph);

“(II) a producer-handler (otherwise described in clause (ii)) for any month during which the producer-handler has route dispositions, and sales to other plants, of packaged fluid milk products equaling less than 3,000,000 pounds of milk; or

“(III) a handler (otherwise described in clause (ii)) for any month during which—

“(aa) less than 25 percent of the total quantity of fluid milk products physically received at the plant of the handler (excluding concentrated milk received from another plant by agreement for other than Class I use) is disposed of as route disposition or is transferred in the form of packaged fluid milk products to other plants; or

“(bb) less than 25 percent in aggregate of the route disposition or transfers are in a marketing area or areas located in one or more States that require handlers

1 to pay minimum prices for raw milk pur-
 2 chases.

3 “(N) EXEMPTION FOR CERTAIN MILK HANDLERS.—
 4 Notwithstanding any other provision of this section, no
 5 handler with distribution of Class I milk products in the
 6 marketing area described in Order No. 131 shall be ex-
 7 empt during any month from any minimum price require-
 8 ment established by the Secretary under this subsection
 9 if the total distribution of Class I products during the pre-
 10 ceding month of any such handler’s own farm production
 11 exceeds 3,000,000 pounds.

12 “(O) RULE OF CONSTRUCTION REGARDING PRO-
 13 DUCER-HANDLERS.—Subparagraphs (M) and (N) shall
 14 not be construed as affecting, expanding, or contracting
 15 the treatment of producer-handlers under this subsection
 16 except as provided in such subparagraphs.”.

17 (b) EXCLUSION OF NEVADA FROM FEDERAL MILK
 18 MARKETING ORDERS.—Section 8c(11) of the Agriculture
 19 Adjustment Act (7 U.S.C. 608c(11)), reenacted with
 20 amendments by the Agriculture Marketing Agreement Act
 21 of 1937, is amended—

22 (1) in subparagraph (C), by striking the last
 23 sentence; and

24 (2) by adding at the end the following new sub-
 25 paragraph:

1 “(D) In the case of milk and its products, no county
 2 or other political subdivision of the State of Nevada shall
 3 be within the marketing area definition of any order issued
 4 under this section.”.

5 (c) RECORDS AND FACILITY REQUIREMENTS.—Not-
 6 withstanding any other provision of this section, or the
 7 amendments made by this section, a milk handler (includ-
 8 ing a producer-handler or a producer operating as a han-
 9 dler) that is subject to regulation under this section or
 10 an amendment made by this section shall comply with the
 11 requirements of section 1000.27 of title 7, Code of Federal
 12 Regulations, or a successor regulation, relating to handler
 13 responsibility for records or facilities.

14 (d) EFFECTIVE DATE AND IMPLEMENTATION.—The
 15 amendments made by this section take effect on the first
 16 day of the first month beginning more than 15 days after
 17 the date of the enactment of this Act. To accomplish the
 18 expedited implementation of these amendments, effective
 19 on the date of the enactment of this Act, the Secretary
 20 of Agriculture shall include in the pool distributing plant
 21 provisions of each Federal milk marketing order issued
 22 under subparagraph (B) of section 8c(5) of the Agri-
 23 culture Adjustment Act (7 U.S.C. 608c(5)), reenacted
 24 with amendments by the Agriculture Marketing Agree-
 25 ment Act of 1937, a provision that a handler described

1 in subparagraph (M) of such section, as added by sub-
2 section (a) of this section, will be fully regulated by the
3 order in which the handler's distributing plant is located.
4 These amendments shall not be subject to a referendum
5 under section 8c(19) of such Act (7 U.S.C. 608c(19)).

Passed the Senate December 16, 2005.

Attest:

Secretary.

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